

**UNITED STATES DISTRICT COURT
DISTRICT OF NEBRASKA**

ANDREA GROVE and
CHRYSTINA WINCHELL,
individually and on behalf
of similarly situated individuals,

Plaintiffs,

v.

MELTECH, INC.,
H&S CLUB OMAHA, INC.,
SHANE HARRINGTON, and
BRAD CONTRERAS,

Defendants.

NO. 8:20-CV-00193-JFB-MDN

**PLAINTIFFS' RENEWED MOTION TO DISQUALIFY
DEFENDANTS' COUNSEL AND FOR SANCTIONS**

Plaintiffs hereby renew their motion to disqualify Evan Spencer as counsel for Defendants and request sanctions against Mr. Spencer and his client, Shane Harrington. In May 2021, the court found that sanctions were appropriate against Mr. Spencer and his client, explaining that “plaintiffs achieved a degree of success that is significant in view of the defendants’ conduct in this action” and “defendants had adequate notice that the plaintiffs were seeking sanctions, up to and including disqualification, contempt, and an entry of judgment.” Dkt. 191. Although this Court did not disqualify Mr. Spencer, its decision was explicitly based on the fact that “[a]t a telephonic conference before Magistrate Judge Nelson on March 22, 2021, defense counsel professed willingness to cooperate with the Court and with plaintiffs’ counsel.” Dkt. 175. The Court also said that “Defendants’ counsel is [] advised that future instances of failure to comply with the Court’s orders or of contumacious conduct may result in sanctions, up

to and including entry of judgment against the defendants.” Id.

Sadly, instead of heeding these warnings, Mr. Spencer’s conduct over the past few months, and particularly in the last two weeks, has only gotten worse, and he has demonstrated a troubling pattern, when met with disagreement by Plaintiffs, Plaintiffs’ Counsel or even the Court, of lashing out with threats, escalation, and intimidation. This includes attempting to use this Court or the AAA Arbitration proceedings as bludgeons in his arsenal, and repeatedly threatening dismissal and/or counterclaims. Mr. Spencer has been deeply disrespectful of the time and resources of this Court, Plaintiffs and their Counsel, and failed to participate in the mediation in good faith. For these reasons, the Court should disqualify Defendants’ Counsel Evan Spencer from this case, and should impose monetary sanctions against Mr. Spencer and his client based on their conduct in this litigation.

DATED: June 28, 2021

Respectfully submitted,

ANDREA GROVE, and
CHRYSTINA WINCHELL,
on behalf of themselves
and all others similarly situated,

By their attorneys,

/s/ Olena Savytska
Harold Lichten
Olena Savytska
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CERTIFICATE OF SERVICE

I hereby certify that on this 28 day of June, 2021, a copy of the foregoing document was filed electronically through the Court's CM/ECF system, which will send notice of this filing to all counsel of record.

/s/ Olena Savytska
Olena Savytska, Esq.